

**IN THE ENVIRONMENT COURT  
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA  
KI TAMAKI MAKAU**

**Decision [2024] NZEnvC 030**

IN THE MATTER OF

an application under ss 314 and 316 of  
the Resource Management Act 1991

BETWEEN

**SOUTH TARANAKI DISTRICT  
COUNCIL**

(ENV-2022-AKL-000180)

Applicant

AND

**J B EDGCOMBE**

Respondent

Court: Environment Judge MJL Dickey

Hearing: On the papers  
Last case event: 28 February 2024

Date of Decision: 11 March 2024

Date of Issue: 11 March 2024

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**DETERMINATION OF THE ENVIRONMENT COURT ON  
APPLICATION FOR ENFORCEMENT ORDERS**

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A: Under ss 314, 316, and 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders:

### **Prohibition**

1. Pursuant to s 314(1)(a)(i) and (ii) of the Resource Management Act 1991 (**RMA**) the respondent is prohibited from bringing onto the property and/or accumulating further materials onto the adjoining properties at 317 and 327 Glover Road Hawera (**the properties**) in a manner that contravenes rule 4.1.5 of the operative South Taranaki District Plan unless it is expressly allowed by a resource consent.
2. Materials include, but are not limited to:
  - (a) whiteware including fridges, freezers, washing machines, dryers;
  - (b) scrap metal in any form;
  - (c) scrap timber and scrap building materials;
  - (d) asbestos-containing materials;
  - (e) treated timber;
  - (f) vehicles or machinery; and
  - (g) general waste.**(materials)**

### **Required action**

3. Pursuant to section 314(1)(b)(i) and (ii) of the RMA, the respondent must remove and lawfully dispose of accumulated, stored and dumped materials on the properties in accordance with the staged removal and remediation plan set out in **Annexure A** to these Enforcement Orders.
4. The respondent must ensure that the removal of the materials is undertaken in a manner that ensures there are no spills, leaks or discharges of contaminants to land or water.

5. The respondent is to allow the South Taranaki District Council to enter and re-enter the properties (but not go inside any dwelling house) and undertake monitoring inspections at the properties at any reasonable time, including in the company of any nominated experts if required, in order to monitor progress and compliance with the works required by these Enforcement Orders.
6. Once all of the materials have been removed from the property in accordance with these orders, the respondent is to promptly (and not more than five working days thereafter) advise the South Taranaki District Council of the completion of the works required by this Enforcement Order.

#### **Contamination mitigation**

7. Where the respondent is removing material that has been identified as asbestos-containing materials, the respondent must:
  - (a) engage a suitably licenced asbestos assessor or other competent person who holds a current asbestos removal licence and is listed on the WorkSafe Asbestos Licence Holder register to prepare and provide an Asbestos Removal Mitigation Plan;
  - (b) a copy of the Asbestos Removal Mitigation Plan must be supplied to the South Taranaki District Council; and
  - (c) the respondent must remove all asbestos-containing materials in accordance with the Asbestos Removal Mitigation Plan.

#### **Location**

8. The location to which these Enforcement Orders apply is:

The adjoining properties at:

- 317 Glover Road, Hawera – more particularly described in Record of Title TNK2/738, being Lot 1 Deposited Plan 19020, being

3.3640 hectares more or less, owned by Julian Brian Edgcombe;  
and

- 327 Glover Road, Hawera – more particularly described in Record of Title TNG2/787, being Part Lot 4 Deposited Plan 11237, being 7925 square metres more or less, owned by Julian Brian Edgcombe  
**(the properties)**

9. An aerial map of the properties is set out in Annexure **B**.

#### **Person against whom order applies**

10. Julian Brian Edgcombe, (aka Tom Edgcombe), of 77 Collins Street, Hawera **(the respondent)**.

#### **Terms and conditions**

11. Pursuant to s 316 and 314(5) of the RMA, these orders apply to the personal representatives, successors and assigns of the respondent to the same extent as it applies to the respondent.
12. Leave is reserved for any for the South Taranaki District Council or the respondent to seek any further directions and / or orders from the Environment Court as necessary. This includes to seek an order, pursuant to s 315(2) of the RMA, that allows the South Taranaki District Council to carry out the works required by the Enforcement Orders and recover the costs from the respondent. Pursuant to s 315(1)(b) of the RMA, the respondent shall pay the costs and expenses of complying with the Orders.
13. Pursuant to s 314(3) of the RMA, the respondent shall pay all actual and reasonable costs of the South Taranaki District Council in monitoring compliance with these Orders, including:
- (a) the actual and reasonable costs of conducting monitoring inspections at the properties; and

(b) the actual and reasonable costs of engaging experts to conduct monitoring inspections in respect of contamination (in particular asbestos contamination) at the properties, including for the purpose of assessing whether there is any evidence of contamination.

14. These Enforcement Orders do not apply to:

(a) any vehicle used by the respondent, if he is residing at the properties, and /or contractors working at the properties, provided that the vehicles have a current warrant of fitness and current registration.

15. These Enforcement Orders shall take effect on the date they are issued by the Court.

B: Costs are reserved. A timetable for costs to be determined is as follows:

(a) South Taranaki District Council is to file any application for costs and any supporting submissions by 29 March 2024;

(b) Mr Edgcombe is to provide a response to the Court/ file any opposition by 5 April 2024.

## **REASONS**

### **Introduction**

[1] This matter involves an application for enforcement orders by South Taranaki District Council against Mr Edgcombe who owns adjoining properties at 317 and 327 Glover Road. The application seeks that Mr Edgcombe remove the hazardous materials from the Properties, including scrap metal, whiteware, treated timber, vehicles, machinery and general waste and be prohibited from accumulating further materials. The basis of the application is to:

(a) Ensure compliance with Rule 4.1.5 of the operative South Taranaki District Plan; and

(b) Avoid adverse effects on the environment due to the accumulation of hazardous materials.

[2] The application was made on 5 September 2022. Since the application was lodged there have been discussions, meetings and a mediation involving the Council and Mr Edgcombe. A mediated agreement was achieved, but for various reasons was not implemented.

[3] The Court has convened many judicial telephone conferences in an effort to advance matters between the parties. Matters are now at a point where Mr Edgcombe agrees with orders being made against him.

[4] The Court has asked Mr Edgcombe a number of times whether he has obtained legal advice. He says he has not, given the cost of that and because he prefers to do things himself through direct communication.<sup>1</sup>

### **Enforcement orders**

[5] Counsel for the Council filed a memorandum dated 28 February 2024.

[6] The memorandum advised that the parties met on 28 February 2024. The content of the draft enforcement orders was explained to Mr Edgcombe. The timeframes for work being completed was discussed.

[7] Mr Edgcombe consented to the making of enforcement orders by consent and signed a copy of the draft orders signalling his consent.

[8] The Court was asked to make the enforcement orders on the terms drafted, or such similar terms as the Court sees fit.

[9] Having considered the memorandum of counsel for the Council dated 28 February 2024 and the draft enforcement orders signed by Mr Edgcombe, I have determined that it is appropriate to make the enforcement orders largely as sought. Minor amendments have been made from the draft provided so as to exclude any dwelling house from the order that enables the Council to enter the properties. Other amendments are matters of style only.

[10] The Court notes the reference to the possibility of an application being made

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<sup>1</sup> See the Court's Minute dated 12 December 2022, at [7].

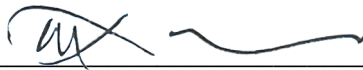
for orders under s 315(2) of the RMA. It assumes that is intended to only foreshadow the possibility of such application, and not to seek those orders now.

### **Outcome**

[11] Having regard to the above history of this matter, the nature of the orders sought and to the accumulation of materials on the properties, I find it is appropriate to make the Orders as outlined at the commencement of this decision.

### **Costs**

[12] If any application for costs relating to this proceeding is filed and a response received, the Court will consider whether the application/s can be determined on the papers or schedule a teleconference to raise any matters with parties before making a determination.



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**MJL Dickey**  
**Environment Judge**



## **ANNEXURE A:**

### **STAGED REMOVAL AND REMEDIATION PLAN**

#### *The Fence*

1. The Respondent will construct a fence along the legal boundary of the property at 327 Glover Road, as defined and marked out by McKinley Surveyors on 6 November 2023.
2. The fence will be two metres high (more or less) and shall be constructed in a good and proper workmanlike manner.
3. The fence will be built using suitable materials (such as wooden posts with corrugated iron cladding) to ensure that the property is appropriately screened from Glover Road.
4. The fence shall be fully constructed by **24 April 2024**.

#### *Staged Removal*

5. The respondent will remove all materials subject to this Enforcement Order from the property over a two-year, three-month period following construction of the Fence.
6. The materials shall be removed from the property and be appropriately disposed off
7. The removal shall occur in three stages as set out below.

#### *Stage One*

8. The respondent shall remove all material from that area marked in green and labelled Stage One on the attached Staged Removal and Remediation Diagram.
9. The removal of all material from that area marked Stage One shall be completed by **24 January 2025**.



*Stage Two*

10. The respondent shall remove all materials from that area marked in red labelled Stage Two on the attached Staged Removal and Remediation Diagram.
  
11. The removal of all material from that area marked Stage Two shall be completed by **24 January 2026**.

*Stage Three*

12. The respondent shall remove all materials from that area marked in yellow labelled Stage Three on the attached Staged Removal and Remediation Diagram.
  
13. The removal of all material from that area marked Stage Two shall be completed by **24 July 2026**.

*Completion of the Removal and Remediation Plan*

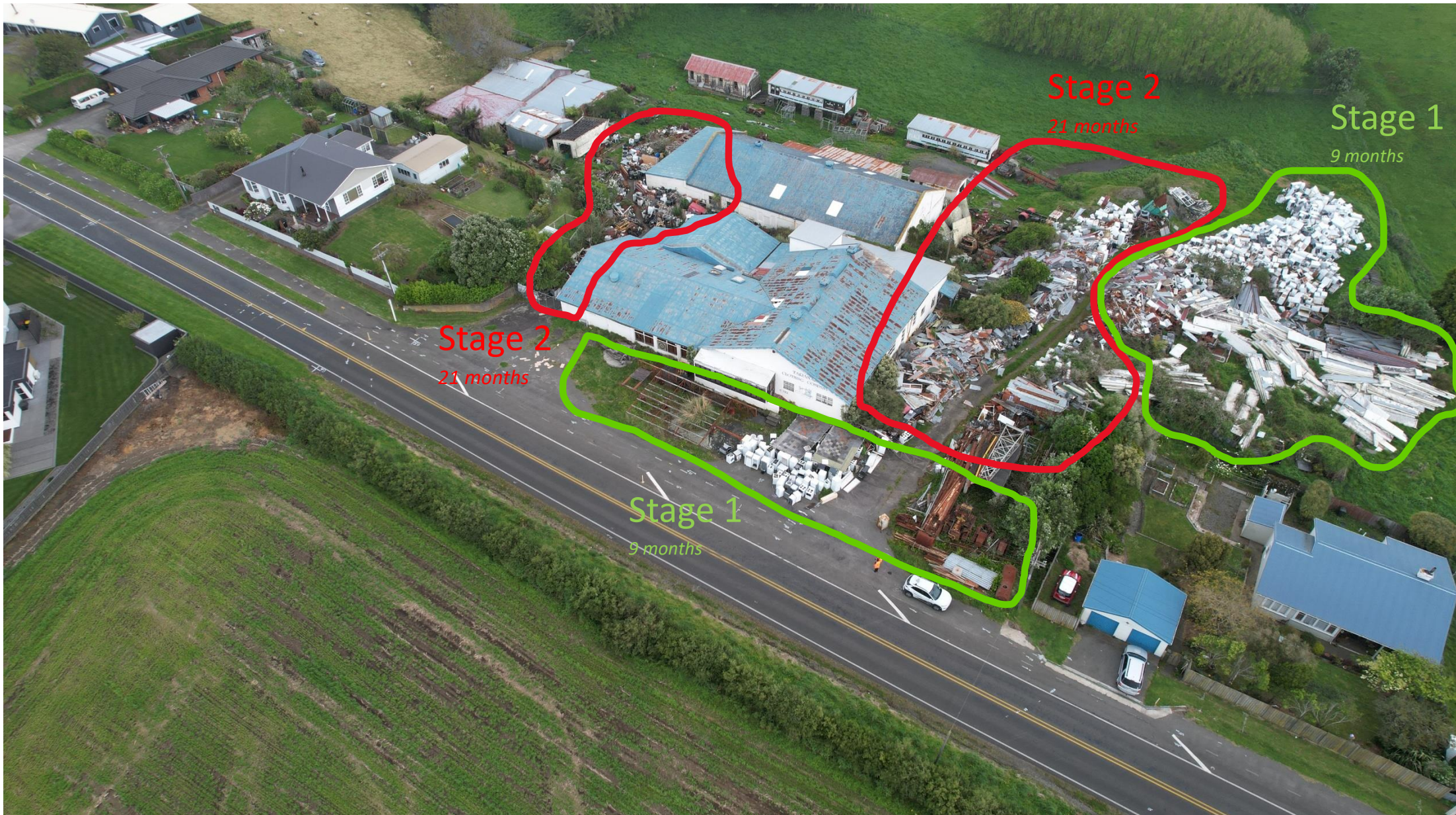
14. At the end of the staged removal and remediation the property will be bare land, subject the storage of any materials as permitted by the District Plan or by the South Taranaki District Council.

# 317 AND 327 GLOVER ROAD – SOUTH TARANAKI DISTRICT COUNCIL / EDGCOMBE

## ENFORCEMENT ORDER

Agreed staged approach timeline for waste removal and remediation of site at 317 and 327 Glover Road, Hawera

*(Digitised version)*





### Stage 3

*Additional 6 months  
beyond first 21 months*

**ANNEXURE B:**

**Aerial map of the properties**

